

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
to Continue the Unbundling of Interstate
Transmission Charges from Core Transport
Rates, and to Address Canadian Transmission
Capacity and Charges As They Relate to Core
Transport Rates, Beginning January 1, 1998.

Application 96-09-028
(Filed September 18, 1996)

**OPINION GRANTING IN PART
PETITION TO MODIFY DECISION 97-12-032****I. Summary**

We grant in part the Petition of the Association of Bay Area Governments Publicly Owned Energy Resources (ABAG POWER) and the School Project for Utility Rate Reduction (SPURR) to modify Decision (D.) 97-12-032 (Petition) to require Pacific Gas and Electric Company (PG&E) to offer natural gas aggregators serving core customers an assignment of a proportionate share of the gas transmission capacity on the Canadian pipelines known as ANG and NOVA at the “as-billed” rate.

Over the last year, the extreme volatility in the market price for gas transportation on these pipelines has threatened to destabilize the 6 percent of the core natural gas market served by core aggregators. For example, gas transportation costs on the ANG and NOVA pipelines in December 2000 rose to a market price of \$9.18 per Dth, – a 35-fold increase in cost from the “as-billed”

rate of \$.26 per Dth that PG&E's customers paid. The remedy sought by ABAG POWER and SPURR, an assignment of transmission capacity at the "as-billed" rate, will introduce a measure of certainty and stability to the costs of transporting gas from Canadian basins.

Granting core aggregators an assignment of transmission capacity will produce positive benefits for all core customers. In particular, it will help preserve customer choice for all customers, it will stabilize the operations of a diverse set of gas suppliers and purchasers now operating in the core market, and it may result in reduced prices to the customers of core aggregators. Although granting core aggregators an assignment of ANG and NOVA capacity last year would have resulted in price increases to core customers of about 1 percent, this is a reasonable cost for stabilizing this sector of the gas supply market. Moreover, market conditions this year should cause this new policy to produce no increased prices to core customers.

Finally, we adopt a series of restrictions on those seeking an assignment of gas transportation capacity on the ANG and NOVA lines to ensure that regulations will stabilize the gas market without subsidizing the provision of gas by core aggregators. In particular, as a condition for receiving an assignment of ANG or NOVA capacity, a core aggregator must make a one-year commitment to capacity on the ANG and NOVA pipelines, renewable upon expiration through the end of the Gas Accord. Moreover, the assignment of capacity is limited to the average gas taken in the year ending June 1, 2001, the year preceding the filing of the petition. There will be no allocation of ANG and NOVA capacity to new core aggregators.

II. Procedural Background

On June 1, 2001, ABAG POWER and SPURR jointly filed the Petition. The Petition requests a modification of one aspect of the capacity assignment rules that apply to the core aggregation program on the PG&E system – the rules that apply to the upstream Canadian pipelines referred to as ANG and NOVA.

PG&E and The Utility Reform Network (TURN) filed separate responses to this Petition on July 2. PG&E states that it does not oppose the Petition, but raises certain facts and issues for Commission consideration and recommends modifications to the Petition’s proposals. TURN, on the other hand, opposes the Petition and recommends Commission rejection.

On July 12, ABAG POWER and SPURR filed a joint reply to the PG&E and TURN filings.

III. Critical Issue: Whether to Modify D.97-12-032

The central issue before the Commission is whether to modify D.97-12-032 to require PG&E to offer an assignment of a proportionate share of its firm up-stream ANG and NOVA gas pipeline capacity at “as-billed” rates to core aggregators that already elect to take an assignment of firm PGT pipeline capacity. Such an allocation will help stabilize the operations of core aggregators but will require PG&E to secure additional capacity at market rates, which can exceed the “as-billed” rates.

Statutes grant much discretion but offer little guidance to the Commission concerning this particular issue. Sections 328-328.2 of the Public Utilities Code provide a broad statutory basis for the restructuring of natural gas markets.¹

¹ All citations refer to the Public Utilities Code.

These statutes resolve the most basic supply issue by assuring service to all customers. In particular, the statutes require that existing gas corporations provide bundled gas services to all core customers unless the customer chooses service from another utility. Beyond this, the statutes are silent on the details of competition in gas markets or the specific policy goals the Commission should advance.

In past decisions setting policy for gas markets, the Commission has considered customer choice a prime benefit, and has deemed “beneficial” those regulations that promote “core aggregator flexibility” and “core aggregator unbundling.” (73 CPUC 2nd 771.) On the other hand, the Commission has also questioned whether the restructuring of the gas industry provides adequate economic benefits to core customers. (73 CPUC 2nd 773.)

The filings in this proceeding emphasize both these aspects of past Commission policy. ABAG POWER and SPURR emphasize the issue of consumer choice, while TURN and PG&E stress the impacts of policy change on bundled core gas customers.

**ABAG POWER and SPURR Argue that the
Commission’s Support for Customer Choice
Requires Changes in the Assignment of
Canadian Transmission Capacity**

ABAG POWER and SPURR’s Petition seeks to change PG&E’s core capacity assignment rules in order to enable core aggregators to gain proportionate access to PG&E’s firm ANG and NOVA capacity for the duration of the Gas Accord (which is expected to terminate on December 31, 2002) at “as-billed” rates.²

² In light of the uncertainty concerning the duration of the Gas Accord, ABAG POWER and SPURR have modified their position. They now request the opportunity to reserve

Footnote continued on next page

The Petition begins with a reiteration of past Commission rulings affecting gas transmission. The Petition notes that rules approved by the Commission in a series of decisions dating back to 1991 grant core customers the ability to purchase their gas supplies from sellers other than the regulated utility. These sellers, called core aggregators, have been granted flexibility concerning the means used to purchase and transport gas supplies for those core customers who choose their service. In accordance with D.97-08-055, known as the Gas Accord, core aggregators can choose whether to use PG&E's reserved core storage capacity, core backbone transportation capacity, and core interstate pipeline capacity.³ In accordance with the provisions of the Gas Accord that were implemented in D.97-12-032, however, core aggregators lack access to PG&E's upstream Canadian pipeline capacity on the ANG and NOVA pipelines.

The Petition supports its proposal to modify current policy with several arguments. The Petition, through a reiteration of the history of regulatory changes in this area, notes that the Commission has always contemplated regulatory action to provide core aggregators access to upstream Canadian capacity. Only market developments have prevented the realization of a market penetration benchmark that, under current rules, would automatically provide all core aggregators with access to this pipeline capacity.

Next, the Petition argues that new market circumstances support change. The Petition states that the inability to acquire a portion of the ANG and NOVA pipeline capacity at PG&E's cost was a relatively manageable problem

transmission capacity on the ANG and NOVA pipelines for a 1-year term. This reservation may be made at any time until the replacement of the current Gas Accord.

³ See also D.00-05-049 (May 18, 2000).

from 1998 through most of 2000 and did not jeopardize customer choice. In late 2000 and early 2001, however, capacity on gas pipelines acquired a scarcity premium, with capacity with an embedded cost of \$.26 per Dth acquiring an imputed value of \$9.18, or \$8.92 per Dth higher than the “as-billed” rate for this capacity.

The Petition then argues that equal treatment of core customers requires regulatory change. The Petition states that there is a mismatch between the cost of transmission capacity to PG&E’s customers and the price of transmission services on the market. This mismatch has prevented the customers of core aggregators from receiving gas and transmission services on a basis that is comparable to the core customers for whom PG&E procures gas. The Petition calculates that the “average market value” of ANG and NOVA capacity over the 12-month period from June 2000 to May 2001 was \$1.55 Dth, which was \$1.29 per Dth higher than the average “as-billed” rate of \$.26 per Dth. The Petition questions the fairness of such an arrangement, and notes that core aggregation customers never had the opportunity to acquire an assignment of PG&E’s firm ANG and NOVA capacity. The Petition notes that for every other element of transmission and storage capacity that PG&E reserves for its core portfolio customer, core aggregators have the ability to obtain access to a pro rata share of PG&E’s capacity. The Petition asks for a pro rata assignment of PG&E’s firm ANG and NOVA capacity rights through the end of the Gas Accord period.

The Petition also argues that Commission action can stabilize the core aggregator market at little cost to bundled core customers. The Petition concludes that, absent Commission action, ABAG POWER and SPURR may need to consider returning their core customers to PG&E. If this occurs, PG&E will incur all the costs of acquiring the transmission capacity to serve these customers. This would require PG&E to pay a market price for this new capacity

and could lead to an increase in PG&E's core portfolio price of gas. In conclusion, the Petition notes that the cost impact upon PG&E's core portfolio customers will likely be about the same, whether the Petition is granted or rejected, because PG&E will have to serve abandoned customers.

Finally, the Petition proposes certain rules to limit the regulatory changes in both time and scope. The Petition proposes the following restrictions:

1. The proportionate assignment of PG&E's ANG and NOVA capacity rights to a core aggregator should not exceed the amount of the firm PGT capacity that a core aggregator has obtained by assignment from PGT;⁴
2. The assignment of PG&E's ANG and NOVA capacity should not exceed the proportionate share of a core aggregator's load on the effective date of the Commission's decision approving this petition; and
3. The modification should apply only until the end of the Gas Accord term (the Gas Accord was scheduled to terminate on December 31, 2002 at the time the Petition was filed).

The Petition states that the purpose of these restrictions is to limit the costs shifted to PG&E's core procurement customers. The Petition claims that these restrictions will ensure that the amount of PG&E's firm ANG and NOVA capacity that is assignable to core aggregators will not increase from the time that the Commission approves this petition until the end of the Gas Accord while

⁴ In Initial Comments on the Draft Decision, ABAG POWER and SPURR ask for removal of this condition, arguing that the lack of ANG and NOVA capacity limited purchases of PGT transmission capacity. No party filed comments in opposition to this request.

maintaining the current core aggregation program for the duration of the Gas Accord.

TURN Opposes Assignment of Transmission Capacity as Unfair to Other Core Customers

TURN opposes the Petition and urges that the Commission not direct PG&E to assign a portion of its upstream Canadian transportation capacity to core aggregators. TURN argues that “now that the market value of ANG and NOVA capacity exceeds the “as-billed” rate, the petitioners seek a pro rata assignment of the capacity without even an offer to reimburse PG&E’s core customers for the cost of “carrying” the ANG and NOVA capacity in 1998, 1999, and early 2000.” TURN characterizes this as “seeking the best of both worlds” and urges that the Commission reject the petition.

TURN also argues that even if the petitioners are no longer able to compete against PG&E’s core portfolio price, the Commission has no obligation to keep core aggregators in business. TURN states that “To the extent the Commission should find any compelling reason to keep ABAG POWER and SPURR in business, TURN suggests that the Commission first require any core aggregator seeking a pro rata assignment of the ANG and NOVA capacity for the remaining duration of the Gas Accord to reimburse PG&E’s core customers for any “above market value” expenses incurred during the period between January 1998 and June 2000.”

TURN next argues that at a minimum, “any capacity allocation should be permanently allocated based on load served, not on the desire to game the market.” Finally, TURN contends that changes in the core aggregation program should only be considered for the period following the expiration of the current Gas Accord at the end of 2002 and not at this time.

**PG&E Does Not Oppose the Petition, But Urges
Careful Consideration of Costs Imposed on Bundled
Core Customers**

In response to the Petition, PG&E notes that it does not oppose the Petition, but argues that the Commission should consider certain factors as it evaluates the Petition. First, PG&E notes that transmission capacity has now become extremely valuable, whereas prior to June 2000, transmission capacity sold at 30% of PG&E's as-billed rate. Thus, Petitioners are requesting the assignment of a valuable asset at below-market prices. Second, PG&E notes that the assignment of this transmission capacity to others is a potential burden to PG&E's bundled core customers. In particular, PG&E notes that in the event that the Commission did require it to assign pipeline capacity to the aggregators, the Commission would be conferring the benefit of the hedged capacity position to the aggregators who have not paid for the hedge. PG&E summarized its argument by raising a fundamental policy issue: "To promote 'customer choice' for a relative few customers, should prices rise – whether 'slightly' or more than slightly – for the larger number of PG&E bundled customers?"

PG&E also notes that the Petition's assertion that core aggregation customers will return to the bundled portfolio requires investigation. In particular, PG&E states that the Petition's assertion that costs to the bundled customer are going to increase regardless of whether the bundled core customers retain the capacity is accurate only if all core aggregation customers return to the bundled portfolio. Moreover, PG&E states that it is unclear how many customers now obtaining gas from core aggregators would return to the bundled core.

In addition to raising issues concerning the merits of the Petition's request, PG&E also proposes changes to limit the scope of any potential changes.

If the Commission grants the Petition, PG&E recommends that approval be limited to the aggregator's customer base as of the date the petition was filed. In addition, PG&E requests that the Commission make it clear that assignment of capacity will hold until the end of the Gas Accord and that there would be no monthly option on the ANG and NOVA pipelines. Finally, PG&E requests elimination of the existing option for aggregators to choose PGT capacity on a monthly basis.

Discussion

The statutes, rules, and past Commission decisions concerning the restructuring of the natural gas market demonstrate that the Commission has the authority to grant the Petition. In past decisions, the Commission has ordered PG&E to assign gas transmission capacity to core aggregators, the very relief that the Petition requests. Indeed, no party in the proceeding disputes the Commission's authority to order the relief in question.

Furthermore, no party disputes the explanation that the Petition could not have been filed within a year after the effective date of D.97-12-032 because it was impossible to anticipate the circumstances that have given rise to the need for the Petition. Thus, the Petition meets the requirements of Rule 47(d) of the Rules of Practice and Procedure and is eligible for Commission consideration.

The parties' filings, however, demonstrate that determining whether the proposed policies best promote the public interest is difficult. As PG&E correctly points out, the Commission must balance the customer choice afforded to some customers that arises from an allocation of transmission capacity against

the additional costs that the allocation will impose on bundled core customers.⁵ TURN similarly notes that the Commission has no obligation to keep core aggregators in business.

Our analysis, however, indicates that granting the petition with restrictions offers a balancing of interests that promotes a broad public interest. In particular, we note the following:

1. The customer choice provided by core aggregators is good for all Californians;
2. Helping core aggregators hedge some of the volatility in gas transportation markets will avoid further disruption to California energy supplies;
3. Many core aggregators, (such as ABAG POWER and SPURR) will pass on savings to their customers; and
4. The added costs to other core customers of reserving some transport capacity for core aggregators are manageable even in the worst case. Under current market conditions, core aggregators would impose no added costs to core customers.

The ability of Californian gas customers to choose service from core aggregators is good both for those who buy gas from aggregators and for those who remain utility customers. (73 CPUC 2nd 771.) First, consumer choice is a goal that is supported in previous Commission decisions. In particular, granting consumers the right to choose gas suppliers enables those dissatisfied with the service offered by the previous monopolist to seek alternatives elsewhere. In addition, the presence in the market of core aggregators enables consumers to

⁵ Recent market developments, however, have turned this argument on its head. Once again, the “as-billed” price is above the market price.

shop for prices. These actions can provide incentives for regulated utilities to match the performance of market participants, thereby benefiting even those customers who remain with the core utility. These actions complement the work of regulatory overseers, who also seek to insure that gas prices remain reasonable.

In addition, the actions of core aggregators help diversify the supply of gas serving California. This reduces some of the volatility of energy markets and thereby benefits all California consumers. We note that at this time virtually all California energy markets face highly volatile prices. In this setting, regulatory policies that maintain the ability of core aggregators to function help provide market stability. Indeed, a decision to return customers to the core gas utility would only impose an additional purchasing requirement on a utility already in financial straits.

Moreover, the work of core aggregators will certainly benefit many customers. In response to the allegations of TURN and PG&E that core aggregators will simply pocket the savings in transportation costs, ABAG POWER and SPURR point out that they are gas-buying cooperatives, and must return any savings to their members. In addition, a simple market analysis also indicates that many core aggregators will likely pass on reductions in gas transportation costs. This result arises because all core customers have the option of obtaining service from the core utility. Thus, if a gas aggregator fails to pass on the savings in gas transportation costs to its customers, then the customers can abandon the core aggregator and return to the core utility whose rates reflect the lower transportation costs.

We note that the cost to core customers of stabilizing the market for core aggregation, even in the worst situation experienced to date, is not large. PG&E holds 580 MMcf/day of ANG and NOVA transportation capacity for

bundled core customers, while core aggregators pay market price for about 24 MMcf/day. Since the average market price of transportation during the last year was \$1.50/Dth above the “as-billed” price, a policy of providing access to ANG and NOVA capacity would increase the price to core gas customers by about 6 cents per Dth. Since the average price of gas at AECO was \$5.085 per Dth, this policy would raise gas prices a little over 1 percent. The cost to other core customers of stabilizing the gas aggregation market last year would have been modest. This year gas rates have fallen and the gas transportation rate on the ANG & NOVA pipelines is once again below the “as-billed” price. Thus, providing customers with the ability to “opt in” will probably cost ratepayers little this year and may even help defray the costs of firm transport to core customers.

In addition to a consideration of the benefits of assigning capacity to core aggregators, we also find that the specific objections of TURN and PG&E are not compelling. First, TURN charges that letting core aggregators reserve capacity on PG&E’s Canadian pipeline at this time constitutes “an example of marketers seeking to take advantage of the utility’s core” assets. We disagree. SPURR and ABAG POWER rightly point out that they never had an opportunity to reserve capacity on PG&E’s Canadian pipelines. In addition, SPURR and ABAG POWER, in reply comments, provide analysis that shows that the market value of the ANG and NOVA capacity at Malin has exceeded the “as-billed” cost by an average of \$.4995 per Dth over this period. Although one can dispute exactly how to calculate the difference between market and “as-billed” rates, the SPURR and ABAG POWER approach is reasonable, and makes clear that there are no “above market” expenses to assign to core aggregators who now wish to participate in ANG and NOVA capacity. These facts, in particular, make moot TURN’s request that core aggregators compensate bundled core customers for

the “hedge” costs that they have borne. Moreover, with current transport rates below the “as-billed” prices, opting in will provide immediate support to core customers.

Second, we disagree with PG&E’s skepticism concerning the contention of SPURR and ABAG POWER that absent the assignment of capacity on the ANG and NOVA pipelines, they may need to withdraw from the market and let their customers acquire bundled core gas services. Although the currently low gas prices reduce the likelihood that core aggregators will withdraw from the market this year, we find the general assertion of SPURR and ABAG POWER highly credible. The Reply Comments of SPURR and ABAG POWER on the Petition provide data that show that the market for Canadian gas transportation services is so highly volatile that it disrupts the functioning of the gas commodity market for any aggregate or lacking substantial reserved transportation capacity. Exhibit A, for example, shows that in December of 2000, the market price of \$14.42 per Dth for natural gas at Malin contained a charge for transportation over Canadian pipelines of \$8.9081, a full \$8.6459 above the “as-billed” PG&E transport price of \$.2622. In this month, PG&E’s commodity plus “as-billed” charges to Malin cost \$5.7741 per Dth, while the commodity plus market price of transport totaled \$14.4200. Thus, it is clear that the size of the cost of transportation – which in December exceeded the market price of delivered gas – was so large that it would overwhelm any cost or benefit achievable by a core aggregator in the natural gas commodity market. Indeed, even if core aggregators obtained the gas for free, their customers would pay more than bundled core customers. Thus, the assertion by SPURR and ABAG POWER that without relief they may leave the natural gas market is highly credible. Even if an exit is not likely this year, it is clear that another spike

in gas transportations of this magnitude could readily cause a stampede out of this market.

Finally, although TURN's comment that the Commission has no obligation to keep core aggregators in business bears remembering, we find that all core customers benefit from the existence of a stable market that permits the continued functioning of core aggregators. Further, we note that ABAG POWER and SPURR raise persuasive equitable arguments for their recommended position. First, they argue that core customers served by ABAG POWER and SPURR deserve equal treatment, and should have the same access to transmission capacity as other core customers. Second, ABAG POWER and SPURR argue that this is not simply a situation where aggregators have avoided payments when market prices were below the cost of capacity. They note that over the entire period, the market value of the pipeline capacity has exceeded the "as-billed" cost, and that core aggregation customers never had the opportunity to obtain an assignment of capacity at any price. Thus, there is no merit to allegations that this is a request for special treatment arising from "buyers' remorse" from core aggregators who guessed wrong concerning developments in the market for gas transportation services. Lastly, under current market conditions, core aggregators obtaining capacity will pay "as-billed" prices in excess of the market rate.

Reasonable Restrictions on the Assignment of ANG and NOVA Capacity Serve the Public Interest

There is a fine line between stabilizing an unstable market situation and providing subsidies from bundled core customers that enable core aggregators to expand their share of the core market. For this reason, we adopt the following restrictive policies that strive to stabilize the core aggregation market as it now exists without subsidizing its expansion:

1. There shall be no allocation of capacity to new core aggregators;
2. For the duration of the Gas Accord, a core aggregator shall be limited to a proportionate assignment of PG&E's ANG and NOVA capacity based on the core aggregator's average load for the year ending June 1, 2001 (the date the Petition was filed); and
3. The assignment of PG&E's ANG and NOVA capacity will be a one-year allocation of capacity through and until the end of the Gas Accord. There will be no "monthly option" on the ANG and NOVA capacity.

We adopt these restrictions because our purpose is to stabilize, not subsidize, the market for core aggregation. We note that SPURR and ABAG POWER have agreed to some, but not all of these restrictions.

Since PG&E has filed Application 01-10-011 to extend the term of the Gas Accord, there is now uncertainty concerning how long the Gas Accord will remain in force. Those electing to accept an assignment of ANG and NOVA capacity should do so for a period that encompasses an entire yearly cycle of peaks and valleys in gas demand and gas prices. Thus, we specifically require those electing an assignment must do so for a one-year term. The optional one-year term for ANG and NOVA capacity should be available through and until the end of the Gas Accord.

We reject PG&E's proposal to require those taking an assignment of ANG and NOVA capacity for a one-year term to forfeit their existing option to choose PGT capacity on a monthly basis. Doing so would unnecessarily reduce the service flexibility available to core aggregators and their customers. We reject TURN's proposal to prohibit an assignment of capacity until the end of the

current Gas Accord because market volatility requires action before the upcoming winter and the duration of the Current Gas Accord is now uncertain.

IV. Comments and Replies on Draft Decision

The draft decision of ALJ Sullivan in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. We received joint opening comments from ABAG POWER and SPURR on November 15, 2001. No party filed reply comments.

Findings of Fact

1. On June 1, 2001, ABAG POWER and SPURR jointly filed a petition to modify D.97-12-032.
2. The Petition could not have been filed within a year of the effective date of D.97-12-032 because it was impossible to anticipate the market developments that have necessitated this filing.
3. The Commission has previously developed capacity assignment rules that apply to the core aggregation program on the PG&E system.
4. The core aggregation program expands the choices available to core gas customers on the PG&E system.
5. The Commission has supported expansion of customer choice in previous Commission decisions.
6. Permitting core customers a choice of gas suppliers enables them to shop for better prices and provides incentives for the core utility to match market prices. Thus, customer choice benefits all core customers.
7. A diversity of gas suppliers and gas contracts acts as a hedge of volatile energy markets.
8. California natural gas markets have exhibited high volatility over the last year.

9. In the last year, highly volatile gas transportation costs on the ANG and NOVA pipelines have at times dwarfed the price of gas.

10. Over the period of the Gas Accord, the market value of the ANG and NOVA pipeline capacity has exceeded the as-billed cost. Thus, there are no net “hedge” costs that bundled core customers have borne for reserving capacity on the ANG and NOVA pipelines.

11. ABAG POWER and SPURR are organized as buying cooperatives that pass cost savings on to their members.

12. If a gas aggregator fails to pass on transportation savings to its customers, the customers can elect to shift their service to the core utility. This provides incentives for core aggregators to pass on transportation savings to their customers.

13. Permitting core aggregators to reserve transport capacity on the Canadian NOVA and ANG systems would have led to an increase to other core customers of approximately 1 percent last year. At current market conditions, other core customers would see no price change.

14. Permitting core aggregators to reserve transport capacity on the Canadian NOVA and ANG systems will help stabilize gas provisioning by core aggregators and reduce the return of customers to the bundled core.

15. If customers elect to return to the bundled core, the core utility must provide service to them and acquire the transmission capacity needed.

16. Core aggregators did not previously have an opportunity to reserve transmission capacity on the NOVA and ANG systems.

17. Adopting restrictions on eligibility for the assignment of capacity on the NOVA and ANG pipelines is necessary to stabilize the current core aggregation market without subsidizing its expansion.

18. Limiting the assignment of capacity on the ANG and NOVA pipelines to current core aggregators will prevent the expansion of the core aggregation program by those seeking to arbitrage transmission costs.

19. Limiting the assignment of PG&E's ANG and NOVA capacity to a one-year term serves to discourage those seeking to arbitrage "as-billed" and market transmission prices.

20. There is no need to alter the current monthly option for core aggregators with respect to PGT capacity in order to prevent subsidization of the expansion of core aggregation.

Conclusions of Law

1. Because the market developments that necessitated the Petition could not have been presented within a year of the effective date of D.97-12-032, the Petition qualifies for Commission consideration consistent with Rule 47 (d) of the Commission's Rules of Practice and Procedure.

2. Stabilizing the core aggregation market is consistent with §§ 328 – 328.2 of the Public Utilities Code.

3. The assignment of capacity on ANG and NOVA to core aggregators will not result in unreasonable price increases to unbundled core customers.

4. Restricting the assignment of capacity on ANG and NOVA to current core aggregators is reasonable.

5. Limiting the assignment of capacity on ANG and NOVA to a one-year allocation, through and until the end of the Gas Accord, is reasonable.

6. Requiring those who elect an assignment of ANG and NOVA capacity to forfeit their existing option to choose PGT capacity on a monthly basis is not necessary to achieve the objective of a stable core aggregation program.

7. The assignment of capacity on ANG and NOVA to core aggregators, subject to the restrictions enumerated above, is reasonable and in the public interest.

8. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. We grant the Petition to the extent described in ordering paragraphs 2 and 3.
2. We modify Decision (D.) 97-12-032 by replacing the language at 77 CPUC 2d 101 (item 3) with the following:

For the duration of the Gas Accord, a core aggregator shall be limited to a proportionate assignment of upstream Canadian capacity based on the average size of the core aggregator's load for the year ending June 1, 2001 (the date the Petition was filed).

The assignment of PG&E's ANG and NOVA capacity will be a one-year allocation of capacity, through and until the end of the Gas Accord. There will be no "monthly option" on the ANG and NOVA capacity.

Finally, There shall be no allocation of capacity to new core aggregators.

3. PG&E shall submit a compliance advice letter within ten days after the effective date of this decision incorporating revised tariff sheets that implement this decision.

4. The option of core aggregators to elect an assignment of ANG and NOVA capacity shall become effective as of the first day of the month that is thirty days after the date when PG&E files its compliance advice letter.

5. We further order that the wording in ordering paragraph number 2 shall replace language that appears in the Gas Accord settlement (D.97-08-055, Appendix B at 73 CPUC 2d 829 (item F.1.b.ii)).

6. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.